10: Roscoe M-5 (ca. 1900)1915
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and secures a large following, and thus becomes a powerful chief.

Petty thefts from houses are dealt with by a medicine-man who discovers the culprit. He goes to the village in which the suspected person lives, takes an ordinary stool, sets it in an open space in the village, fills the hollow of the seat with water and covers it with an inverted cooking-pot. Having done this he goes through a formula mentioning the names of the families of the village, and at length mentions the names of the suspected family individually, until at last he names the person accused. When the name of the guilty person is mentioned, the water on the stool is said to flow from under the pot. The person thus convicted is fined and, in addition to his fine, he is compelled to restore the full amount of property he has stolen.

Adultery. When a man is accused of adultery, he is tried and, if found guilty, is fined an ox which is given to the injured man. An unfaithful wife, who leaves her husband, may be restored to him and he will not think the worse of her. Should she refuse to return to her husband, her father must either supply the husband with another wife, a sister of his former wife, or restore the marriage-fee. Unmarried women are given great license and are not considered guilty of an immoral action when they have sexual relations before marriage.

Murder. A murderer is discovered by means of the oracle. A medicine-man is asked to discover the murderer and, when he names the person, the relatives of the murdered man accuse the murderer. The accused is ordered to bring his son, and the medicine-man, after making incantations over a pot of drugs, gives the boy a cup of it to drink. If the father is guilty, the son will die at once; whereas, if he is innocent, the boy will suffer no harm. When a man is proved to be guilty or acknowledges his guilt, he is fined a number of cows and has to give his daughter or sister to the father of the murdered man. A murderer seldom seeks safety by flight when he has committed his deed, and often confesses his guilt without any trial, avowing the motives of his act. There is a special ceremony to purify a murderer. He is first separated from the members

11: Hartmann M-5 (ca. 1920) 1928 FL11 Luo FL11

the ear of father, mother and child. But 10 days later, on the day of the feast, the father's head is only shaven above the ear again. Those of mother and child, however, are shaven clear *(bwanyo wich)*. The feast is prepared much like for a babe-boy, but there is no *awinja*, and the performance with the ladle does not take place. Neither is the woman ornamented like after the birth of a boy; because the girl later on will not belong to that part of the country; she will be married out and live and die elsewhere. 852

If the husband has more wives, he is not entitled to conjugal rights with any of them until after the birth of a child the feast has taken place, and he has slept again with the mother of the child. If he would brake this rule, the new-born babe would waste away and die *(omiyo nyathi chira)*. 846 834

Adultery is reckoned a serious offence by both husband and wife. If the woman knows that her husband is misbehaving in this way, she will refuse cohabitation, for if she is with a child cohabitations would result in a miscarriage. If a woman commits adultery her husband may send her away, and claim the dowry he has paid for her. However, if she brings forth a child born from adultery he will reckon the child to be his own, as the woman is his, nobody else's for he has properly married her. 837 834 684 ● 848

A widow is given in marriage to the full brother or the nearest relation of her deceased husband. If she goes to his full brother, or in case he had none, to his nearest relation, and if she begets children by him, then these children will be reckoned to be the children of her new husband. In case her deceased husband has a full brother but she does not like him, or he is still too young to take her as his wife, some other near relative will take the widow. But the children born by them will be called the children of the deceased husband. The present husband is only a borrowed one. Hence, when the girls born to them grow up and get married, the real brother of deceased husband will receive the full dowry paid for them minus one cow for each girl, which cow goes to the real father of the girl for bringing her up. 587

When the boys born by them grow up and get married they will leave the kraal and build their own apart, unless their real father helps them to get married by paying the dowry. [591]

If a woman has given birth to twins, both she and her husband are not allowed to leave the hut at all for 20 days; not even for nature's call. A hole is dug in the floor of the hut, and an old bottomless cooking pot is put over it, and this is used as a W. C. During those 20 days new beer is brewn. When the time has elapsed and the beer is ready, a bull is killed and its hide is dried for the parents of the twins to sleep on. For on that day some old woman will take away the old hide, which they used for that purpose. The relations of the woman also kill a bull and brew beer, which they bring along to the village where the twins are born. After their arrival the father and the mother with the twins sit down near the entrance of the kraal, together with an old woman who beats a drum. The visitors from the woman's home, the people of the kraal and of all the neighbourhood in turn go up to the mother of the twins, who has got some white clay *(rongo or migosi)* mixed with water in a small vessel. She dips her finger in it and 945 852 [514] [273]

19:Wilson E-5 (ca. 1950) 1960
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ignorant of the previous night's events, notified the police. Thus the story was out. 159 682

The Joluo were concerned that the youth should have been arrested and charged with murder. He was acquitted after trial on the grounds of self-defense, but the opinion remained that he should have had praise and not have suffered the indignity of being held in custody which, to the unsophisticated, was punishment and prison.

The Joluo discipline wives and children, when it is thought necessary, by beating and kicking. One or two cases each year come to the courts as a result of excessive force resulting in the death of a victim of discipline. Out of 46 cases between 1949 and 1954, 10 were of this type. 593 861 682

The largest number of murder cases today arises from drunken quarrels during beer parties. Native beer does not have a high alcoholic content, but a beer-drink often begins at mid-morning and continues well into the night and, on special occasions, until the next day. The quantity consumed therefore frequently produces an acute state of drunkenness. Of the 46 cases, no fewer than 12 can be classified as the result of excessive beer drinking. These cases, without exception, were finally treated by the courts as manslaughter. 682 273

Family quarrels, often over bride-wealth payments, account for a few cases every year. A typical case of this type is as follows. 159 628 684

Case No. 3.

In 1949, the Accused caught his wife in the act of adultery with an acquaintance. The wife returned to her father's village, as is the custom in such cases, and made several efforts to elope with her lover. On each occasion, her brothers forcefully restrained her and threatened her lover with a severe beating or death, should he attempt to elope with their sister. After several weeks of argument and numerous meetings of the eld-

19:Wilson E-5 (ca. 1950) 1960
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159 ers of the clans involved in the case, the husband went to the
628 village of his wife and took ten head of cattle by force from
684 her father's herd. This action is approved in customary law after the elders have met and discussed the matter and are unable to resolve it by any other method.

Naturally the brothers of the girl were extremely angry that their sister should have behaved in this way that meant the loss of animals which they, no doubt, had planned to use for their own bride-wealth. The girl remained unrepentant and troublesome. She stated that she was determined to return to her former husband's village to collect her clothes, and that she would leave her brothers and her former husband in order to join her lover. Her brothers followed her to the village of her former husband and there began to quarrel. Her former husband joined the group, and the three decided to teach this woman a lesson. They beat her with sticks until she was dead.

[682] The court took a lenient view and decided that their intention was not to kill the woman but merely to discipline her, and each of the Accused was sentenced to six months hard labor for manslaughter.

The next case also arose out of bride-wealth.

Case No. 4.

159 In 1949, a woman left her husband to live with her lover.
684 Her husband tried through indigenous and legal channels to
583 get his bride-wealth returned. The woman's father, however, had used the animals and could not return them, although he was sympathetic. The husband, therefore, was left with only one course, to demand the return of his wife. To this end, he went to the village of her lover and threatened him. They began to quarrel and to fight. Each was armed, the lover with a spear and the Accused, the husband, with a *panga* and a knife. The lover was killed and the husband charged with murder.

159 In this case, the court decided that this was manslaughter,
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19:Wilson E-5 (ca. 1950) 1960
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762 553 was given his name reveals their attempt to avoid the consequences of his act.

762 159 684 [178] The second case arises from a breach of customary law which in the old days would have meant banishment but which today brings social ostracism.

Suicide Case No. 2.

The suicide was caught in the act of intercourse with his full brother's wife. The Luo believe that such an act involving members of the same *Jokamio* (that is, those descended from the same mother or grandmother) brings *chira* to the whole clan. The security and solidarity of family relationships are [578] threatened by the act because it involves quarrels which may lead to violence within the primary segment of the clan. In this case the brother did not tell the elders of the clan but merely threatened to do so. The guilty man returned to his own homestead and hanged himself in his hut. The house was destroyed [783] and members of the extended family were cleansed by the *jabilo*. The cleansing ceremony took the same form as in the first case, with the addition that the village was sprinkled with medicine in order that it might continue to be used by the dead man's family.

In the next case there are two clear motives which led to the suicide. The first, perhaps the most important, lies in indigenous beliefs and attitudes, while the second lies in more modern attitudes.

Suicide Case No. 3.

159 762 556 [661] This Luo was about 30 years old and had been employed as a driver for the Government for many years. Drivers in Kenya receive a relatively high salary, and in addition some take advantage of their position and make extra money by illegally charging people for transportation. Through these activities, he became a relatively rich man and was able to marry a total of five wives at his comparatively young age. He was also wealthy

19:Wilson E-5 (ca. 1950) 1960
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Suicide Case No. 4.

762 159 584 A young lad aged about 23 years was being married to a girl from a neighboring location. He had paid a portion of bride-wealth and many of the early ceremonies had been performed. His bride had returned to her home as is the custom until he had paid the remainder of the bride-wealth. He went to his father-in-law to discuss the last and final payment, with his *jagam* as witness, and the father-in-law agreed that a milch cow would complete the payment. He returned in high spirits to the home of his father and asked for the cow, stating that this was all the father-in-law demanded. His father told him that if he had not paid enough, then the father-in-law must be a bad man and the girl was not worth having. The father and the son quarreled, and during the quarrel the son threatened suicide if he did not get the animal. The next day the son took a cow by force, while his father was absent, and sent it off to his father-in-law by a group of herd boys. When the father returned, he was furious at what his son had done and went after the cow himself. He caught up with the boys and brought the cow back to the village.

159 762 The son had warned his father that, if he should take this course, he would hang himself, and, as he saw the father returning in the distance, he hanged himself from a tree which stood just outside his father's village. This tree, as is the custom, was completely uprooted and destroyed.

762 159 684 The next cases are two which were due to modern circumstances but which in a sense involve the loss of status and therefore brought shame to the individual.

Suicide Case No. 5.

A young man eloped with the wife of a Kikuyu in Nairobi, far from his homeland. Whereas in Luo customary law to run off with the wife of another man is not considered to be particularly serious, in Kikuyu customary law it is regarded as

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a criminal offense. He was caught, and the Court fined him a relatively large sum of money and gave him thirty days in which to pay. He became very depressed and, after unsuccessful attempts to raise the money, he hanged himself.

Suicide Case No. 6.

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The man involved was in his early thirties, and was in a position of trust with a Local Government body in Nyanza Province. He was alleged to have abused his position of trust by embezzling a considerable sum of money. The auditors had come across this defalcation in the books and brought it to his attention, but before he was arrested he killed himself by falling on a knife. Both the cause and the method can be said to be modern.

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Case numbers seven and eight involve a loss of status, but on the other hand are attributable to poverty.

Suicide Case No. 7.

[888]
[626]

An old man whose wives had all died had to depend on his sons for support. The sons supported the old man while in his village but, after a quarrel, built a new village of their own and refused to build a house for him. As he had no one to support him and as he felt that he was ostracized by his sons, he had, to quote the Luo elders, "No other recourse than to commit suicide. His sons killed him and will suffer." He hanged himself on a thick tree which grew by a river, where he was found by an ex-chief. The Luo elders were quick to point out that he achieved his revenge, because the descendants of his sons were already few in number and mostly girls. "The line will die out because they killed him."

Suicide Case No. 8.

The man in this case was a widower living with his only son, who gave him food, but could not afford to maintain the ap-

19:Wilson E-5 (ca. 1950) 1960
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762 the village, she would be teased and chided pleasantly about
159 the fact that he was her future husband. Perhaps she would
584 have been married sooner, had her future husband, Opala, not been employed in a city many hundreds of miles away. He returned on his long leave to consummate the marriage at the time when the girl had just finished her secondary education and was about 18 years of age.

While at school, however, Akech had fallen in love with a teacher, Okare, in a neighboring technical school and he was determined to marry her. He went to her father and pleaded to be allowed to repay the bride-wealth animals her father had received years before and to complete the bride-wealth payments to marry the girl by Luo law and custom. Opio adamantly refused, and her brothers threatened Okare with physical violence if he should try to see the girl again. Okare was heartbroken and returned to his place of employment. Akech, however, had other ideas. When she was told that the date of her wedding had been fixed, she pleaded and tried every traditional way of breaking the marriage, but was unsuccessful. Her father and her prospective husband remained adamant.[3]

159 The night before the wedding, she ran away from home to
762 join Okare at his place of employment. Both knew that they
584 would be pursued by the girl's brothers and by her father, so they hired a car and fled to the boy's village in a distant Luo
● 684 tribe, some 200 miles away. Her father, brothers and future husband pursued the lovers to Okare's village where the father had him arrested for taking Akech from his custody. Okare's brothers, however, took the girl to Nairobi to hide her pending the result of the case. One of the brothers was then arrested for aiding and abetting the elopement.

Now the essence of this case goes to show that the father

[842] [3] By tradition, a girl may run off to the home of a "bride," thus to marry will produce sterility. She may climb a tree *bondo*, an *euphorbia*, which is believed to be closely associated with the ancestors. There are several other ways, all of which would cancel an ordinary wedding, but none is effective in the case of *nyar kiseke*.

19:Wilson E-5 (ca. 1950) 1960
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wanted the best of two worlds. Traditionally, elopement (*por*) is justified and is legal, albeit more difficult in cases of *nyar kiseke*, providing that the young man has stated his willingness to pay bride-wealth and has been refused. Moreover, it is the last remaining traditional way by which a young woman, forced to marry against her will, is able to break the arrangement. Today, however, because there are so many illegal unions, the African courts take a serious view of young men and women running off to the towns without the slightest intention of paying bride-wealth.

While Okare and his brother were retained in gaol, pending the case, the girl's father and her brothers went to Nairobi, where they found the girl after some difficulty and took her back to her village by force. There they married her to Opala and he, with two of her brothers, took her by force to the place of his employment which was in another territory nearly 700 miles away.

Opio, who was an influential man in his district, then proceeded with the case against Okare and his brother. The Court decided in favor of Opio, ordered compensation for the expenses he had incurred securing the return of his daughter. Okare and his brother were heavily fined for having taken the girl from the protection of her father. The compensation and the fine amounted to a very large sum of money and the boy appealed to the District Officer's Court. Pending the Appeal, he went to search for new employment at Nairobi. Akech, in the meantime, had arrived at the home of her husband in the far away city, only to find that he was already married and that his first wife, as a Christian, refused to have her in her home. Quarrels and arguments began in earnest, with the result that Opala had no alternative but to send the girl back to her father and to demand a divorce. Akech, however, did not go home but returned to Nairobi to Okare.

The father heard what had happened and, in the shame and humiliation, hanged himself in a classroom at the school

19:Wilson E-5 (ca. 1950) 1960
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from the fear of consequences arising from the behavior of her son and, in two cases, there was a suspicion that the women did not in fact commit suicide, but were murdered by their husbands in such a way that it looked as if they had committed suicide. 762

Suicide Case No. 11.

A young woman was accused by her husband at a beer party of having slipped quietly out for intercourse with a man from the village. To prove that she was innocent, she hanged herself on a tree which was near the homestead. If she had been guilty, the Joluo argue, "she could have been cleansed, but she could not be cleansed for having done nothing." 762 159 684 783

Suicide Case No. 12.

A young wife, newly married, had offended her husband in some way and he refused to eat her food. (This is a customary curse and is a very severe punishment to a wife.) She threatened to kill herself if he did not eat it. He then took the food to the senior wife, who ate it, adding insult to the injury already done. The young wife went to her hut where she stood on her grinding stone and hanged herself from the roof. 762 159 578

The elders were quick to point out in this instance that since her death the village had been abandoned and many children of the lineage had died. All this, they believe, was caused by the ghost of the abused wife. 762 159

The third case involved a young girl who committed suicide because she did not wish to marry the person chosen for her by her parents. 762 159 584

Suicide Case No. 13.

A very young girl, little more than a child, objected in the traditional way to the union which her parents had arranged.

20:Ominde I-5 (ca. 1948) 1952
FL11 Luo FL11

source of much social rejoicing to discover that a married woman had been found to be a virgin. Such a bride was given a high prestige among the other women. In the past, if a woman gave birth to an illegitimate child, her only chance of marriage was to an old man with a number of wives. There was no possibility of occupying the position of chief wife of the family; and the heads of cattle paid were much fewer. The child was taken by the man who legally married her, but she was not allowed to give birth in her own home. Everything was done to get rid of her as soon as possible.

Examples of such pregnancies are very common at present. But although social disapproval is still keenly felt, modern conditions have become more favourable to women in this situation, and an increasing number of them are being married to bachelors. Unlike some communities, no death punishment was ever given. If the occurrence takes place between close relatives the matter is kept secret; in the past, however, the couple could be exiled.

Modern Education and Adolescent Girls

Progress in the education of adolescent girls is hampered because the Luo people do not appreciate its suitability to the environment of their women. To the majority, modern education is associated with clerical work and the many other jobs that men take up after a school career. The position of girls in this scheme is not clearly envisaged.

The social importance attached to marriage is having to adapt itself to a prolonged school career and the raised age for marriage which this implies. An inability to appreciate schooling for girls is also based on a high esteem for the traditional education which it tends to interrupt and weaken.